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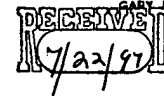
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TO : Examiner Anthony Caputa  
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FACSIMILE NO.: 703-308-4242  
FROM : John P. White, Esq. /Ja K. Moon, Esq.  
TOTAL NUMBER OF PAGES, INCLUDING COVER PAGE: 05  
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Communication In Response To June 25, 1997 Office Action in connection with Philip O. Livingston and Friedhelm Helling, U.S. Serial No. 08/196,154, filed November 16, 1995 for GANGLIOSIDE-KLH CONJUGATE VACCINES WITH QS-21, including a Facsimile Certificate of Transmission dated July 21, 1997.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Philip O. Livingston and Friedhelm Helling  
U.S. Serial No.: 08/196,154 Group Unit: 1817  
Filed : November 16, 1995 Examiner: A. Caputa  
For : GANGLIOSIDE-KLH CONJUGATE VACCINES WITH QS-21

1185 Avenue of the Americas  
New York, New York 10036  
July 21, 1997

Assistant Commissioner for Patents  
Washington, D.C. 20231

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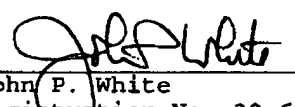
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Ja K. Moon

Respectfully submitted,

  
John P. White  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#12

Applicants : Philip O. Livingston and Friedhelm Helling  
U.S. Serial No.: 08/196,154 Group Unit: 1817  
Filed : November 16, 1995 Examiner: A. Caputa  
For : GANGLIOSIDE-KLH CONJUGATE VACCINES WITH  
QS-21

1185 Avenue of the Americas  
New York, New York 10036  
July 21, 1997

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

COMMUNICATION IN RESPONSE TO JUNE 25, 1997 OFFICE ACTION

This Communication is submitted in response to the Office Action issued June 25, 1997 by the U.S. Patent and Trademark Office in connection with the above-identified application. A response to the June 25, 1997 Office Action is due July 25, 1997. Accordingly, this Communication is being timely filed.

REMARKS

Claims 44-68 are pending and under examination in the subject application.

The Examiner stated that the Communication filed on December 16, 1996 is non-responsive to the prior Office Action because it is not clear from applicants' response if applicants traverse the provisional rejection under 35 U.S.C. 101 as set forth in the last Office Action. The Examiner stated that applicants' response that the "provisional rejection" should be withdrawn in view of the arguments under 35 U.S.C. 103 and 112 would appear to address the obvious-type double-patenting since an obvious-type rejection is analogous to 35 U.S.C. 103. The Examiner stated that since the response appears to be bona

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Philip O. Livingston and Friedhelm Helling  
U.S. Serial No.: 08/477,097  
Filed: June 7, 1995  
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*fide*, but through an apparent oversight or inadvertence failed to provide a complete response, applicants are required to complete the response within a time limit of one month from the date of this letter or within the time remaining in the response period of the last office action, whichever is longer. The Examiner stated that no extension of this time limit may be granted under either 37 C.F.R. 1.136 (a) or (b), but the period for response set in the last office action may be extended up to a maximum of six months.

In response, applicants respectfully traverse the Examiner's provisional double patenting rejection. Applicants further point out that for a provisional double-patenting rejection, M.P.E.P. §804 requires that the:

'provisional' double patenting rejection should continue to be made by the Examiner in each application as long as there are conflicting claims in more than one application unless that 'provisional' double patenting rejection is the only rejection remaining in one of the applications. If the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the Examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the application(s) into a double patenting rejection at the time the one application issues as a patent.

Therefore, applicants maintain that even if the Examiner continues to reject the claims of the subject application because they supposedly conflict with the claims of U.S. Serial Nos. 08/477,147 and 08/481,809, the provisional rejection under 35 U.S.C. §101 should be withdrawn. Since applicants'

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Philip O. Livingston and Friedhelm Helling  
U.S. Serial No.: 08/477,097  
Filed: June 7, 1995  
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arguments overcome the other rejections of this application, specifically the rejections under 35 U.S.C. §112 and §103, the provisional rejection would be the only rejection remaining in the subject application. Therefore, the Examiner should then withdraw the provisional rejection and permit the application to issue as a patent.

In view of the foregoing statements, applicants respectfully request that the Examiner reconsider and withdraw the rejection based on provisional double patenting.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Communication. However, if any other fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,

  
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